Statement of

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"H.R. 3889, the "Methamphetamine Epidemic Elimination Act of 2005"

Chairman Coble, Representative Scott, and distinguished members of the House Judiciary Committee- Subcommittee on Crime, Terrorism and Homeland Security, on behalf of the Drug Enforcement Administration's (DEA) Administrator, Karen Tandy, I appreciate your invitation to testify today regarding the "Methamphetamine Epidemic Elimination Act." I am pleased to testify here today.

Overview

Methamphetamine's devastating consequences are felt across the country by innocent children and adults, governmental agencies, businesses and communities of all sizes. More commonly known as "meth," this highly addictive stimulant can be easily manufactured using "recipes" available over the Internet and ingredients available at most major retail outlets. While meth used to be associated only with a few outlaw motorcycle gangs (OMG), the use and manufacturing of this deadly substance is now a national problem. Today, few communities in the United States have not been impacted by methamphetamine.

In an effort to combat methamphetamine, the DEA aggressively targets those who traffic in and manufacture this dangerous drug, as well as those who traffic in the chemicals utilized to produce it. We have initiated and led successful enforcement efforts focusing on meth and its precursor chemicals. Every day the DEA works side by side with our federal, state and local law enforcement partners to combat the scourge of meth. Last spring, DEA Administrator Tandy directed DEA's Mobile Enforcement Teams (MET) to prioritize methamphetamine trafficking organizations during their deployments. These and other initiatives have resulted in tremendously successful investigations, that have dismantled and disrupted high-level methamphetamine trafficking organizations, as well as dramatically reduced the amount of pseudoephedrine illegally entering our country.

In addition to our enforcement efforts, the DEA is combating this drug by administering the cleanup of labs across the country, providing assistance to the victims of methamphetamine and educating communities on the dangers of this drug. The DEA also monitors state legislation aimed at combating methamphetamine and has noted the success experienced by some states in reducing the number of small toxic labs within their borders. Additionally, the Administration supports the development of Federal legislation to fight methamphetamine production, trafficking and abuse. Any such legislation should of

course balance law enforcement needs with the need for legitimate consumer access to widely used cold medicines.

Methamphetamine in the U.S.

Methamphetamine is a synthetic central nervous system stimulant that is classified as a Schedule II controlled substance. It is widely abused throughout the United States and is distributed under the names "crank," "meth," "crystal," and "speed." Methamphetamine is commonly sold in powder form, but has been distributed in tablets or as crystals ("glass" or "ice"). Methamphetamine can be smoked, snorted, injected or taken orally. The clandestine manufacture of methamphetamine has been a concern of law enforcement officials since the 1960's, when OMGs produced their own methamphetamine in labs and dominated distribution in the United States. While clandestine labs can produce other types of illicit drugs such as PCP, MDMA, and LSD, methamphetamine has always been the primary drug manufactured in the vast majority of drug labs seized by law enforcement officers.

State Approaches to Control Methamphetamine

As was discussed in the Interim Report from the National Synthetic Drugs Action Plan, the only two states that had enacted legislation from which we had reliable data at the time, were Oklahoma and Oregon. During April 2004, Oklahoma enacted the first and at that time, the most far-reaching state law restricting the sale of pseudoephedrine products. To date, over forty States have enacted or proposed various laws to restrict the sale of pseudophedrine products. This law made pseudoephedrine a Schedule V Controlled Substance in Oklahoma. Provisions of this law included: limiting sales of both single-entity and combination pseudoephedrine products to pharmacies; requiring pseudoephedrine products to be kept behind the pharmacy counter; and requiring the purchaser to show identification and sign a log sheet.

Oklahoma's law was noted in the National Synthetic Drugs Action Plan and was the first of many similar proposals introduced in State legislatures this past year. The Interim Report of May 2005 again noted Oklahoma's law, as well as Oregon's approach. In October 2004, Oregon adopted a similar approach to Oklahoma's model through a temporary administrative rule. Oregon, unlike Oklahoma, allowed combination pseudoephedrine products - those containing pseudoephedrine plus other active medical ingredients - to be sold at stores other than pharmacies, provided that the products were kept in a secure location. At the time of the Interim Report's release, only four months of data from Oregon were available for review. This review showed an approximate 42 percent reduction in the number of labs seized from the same months in the prior year. A review of 12 months worth of data from Oklahoma showed a 51 percent reduction in lab seizures (April 2004 through March 2005).[1]

The Interim Report noted that, even with the stabilization in methamphetamine laboratory numbers observed nationally, no states with consistently significant numbers of methamphetamine labs have seen the reductions in lab numbers that Oklahoma and, to a lesser but still significant extent, Oregon had seen. The Interim Report stated that, with the available data - a year's worth of data from Oklahoma, four months of

1 p.6, Interim Report.

data from Oregon, and several years worth of national data - strongly suggested that Oklahoma's and Oregon's state-level approaches were probably primary reasons for the dramatic reduction in the number of small toxic labs (STL) in Oklahoma, as well as smaller reductions in Oregon. It should also be noted that since the release of the Interim Report, Oregon has enacted legislation that made pseudoephedrine a Schedule III Controlled Substance.

Since the release of the Interim Report, the seizure of meth labs in Oklahoma has continued to remain at low levels, with a total of 115 meth labs being seized from April through July 2005.[2] The seizure of these 115 labs is significantly less than the seizures reported in Oklahoma during this same time period in 2004 (261) and 2003 (423).

Furthermore, the State of Oregon has recently enacted legislation that classifies pseudoephedrine as a Schedule III Controlled Substance. This law is not scheduled to fully go into effect until July of 2006, so data does not yet exist to draw any conclusions as to its effectiveness.

Methamphetamine Threat Assessment and Trends

Methamphetamine found in the United States originates from two general sources, controlled by two distinct groups. Most of the methamphetamine in the United States is produced by Mexico-based and California-based Mexican drug trafficking organizations. These drug trafficking organizations control "super labs" and produce the majority of methamphetamine available throughout the United States. Mexican criminal organizations control most mid-level and retail methamphetamine distribution in the Pacific, Southwest, and West Central regions of the United States, as well as much of the distribution in the Great Lakes and Southeast regions. Mexican midlevel distributors sometimes supply methamphetamine to OMGs and Hispanic gangs for retail distribution throughout the country.

Asian methamphetamine distributors (Filipino, Japanese, Korean, Thai, and Vietnamese) are also active in the Pacific region, although Mexican criminal groups trafficking in "ice methamphetamine" have supplanted Asian criminal groups as the dominant distributors of this drug type in Hawaii. OMGs distribute methamphetamine throughout the country, and reporting indicates that they are particularly prevalent in many areas of the Great Lakes region, New England, and New York/New Jersey regions.

The second source for methamphetamine comes from STLs, which supplement the supply of methamphetamine in the United States Initially found only in the most Western States, there has been a steady increase and eastward spread of STLs in the United States. Many methamphetamine abusers quickly learn that the drug is easily produced and that it can be manufactured using common household products found at retail stores. For approximately $100 in "materials," a methamphetamine "cook" can produce approximately $1,000 worth of this poison. Items such as rock salt, battery acid, red phosphorous road flares, pool acid, and iodine crystals can be used as a source of the necessary chemicals. Precursor chemicals such as pseudoephedrine can be extracted from common, over-the-counter cold medications, regardless of whether it is sold in liquid, gel, or pill form. Using relatively common items such as mason jars, coffee filters, hot plates, pressure cookers, pillowcases, plastic tubing and gas cans. A clandestine lab operator can manufacture meth almost anywhere without the need for

2 Oklahoma Bureau of Narcotics and Dangerous Drugs, August 2005.

sophisticated laboratory equipment.

Widespread use of the internet has facilitated the dissemination of technology used to manufacture methamphetamine in STLs. This form of information sharing allows wide dissemination of these techniques to anyone with computer access. Aside from marijuana, methamphetamine is the only widely abused illegal drug that is capable of being produced by the abuser. Given the relative ease with which manufacturers are able to acquire "recipes" and ingredients, and the unsophisticated nature of the production process, it is not difficult to see why this highly addictive drug has spread across America.

STLs produce relatively small amounts of methamphetamine and are generally not affiliated with major drug trafficking organizations. However, STLs have an enormous impact on local communities, especially in rural areas.

A precise breakdown is not available, but current drug and lab seizure data suggests that roughly two-thirds of the methamphetamine used in the United States comes from larger labs, located outside the United States, and that approximately one-third of the methamphetamine consumed in this country comes from the small, more toxic laboratories.

Battling Methamphetamine and its Precursor Chemicals

As a result of our efforts and those of our law enforcement partners in the U.S. and Canada, we have seen a dramatic decline in methamphetamine super labs in the U.S. In 2004, 55 super labs were seized in the United States, the majority of which were in California. This is a dramatic decrease from the 246 super labs seized in 2001. This decrease is largely a result of DEA's enforcement successes against suppliers of bulk shipments of precursor chemicals, notably ephedrine and pseudoephedrine. Law enforcement has also seen a huge reduction in the amount of pseudoephedrine, ephedrine, and other precursor chemicals seized at the Canadian border.

More than any other controlled substance, methamphetamine trafficking endangers children through exposure to drug abuse, neglect, physical and sexual abuse, toxic chemicals, hazardous waste, fire, and explosions. An appalling example of methamphetamine-related abuse was discovered by the DEA in Missouri during November 2004. During an enforcement operation targeting a suspected methamphetamine laboratory located in a home, three children, all less than five years of age, were found sleeping on chemical-soaked rugs. The residence was filled with insects and rodents and had no electricity or running water. Ironically, two guard dogs kept by the "cooks" to fend off law enforcement were also found: clean, healthy, and well-fed. The dogs actually ate off a dinner plate.

Since being implemented in 1992, the DEA has enhanced its Victim Witness Assistance Program, and each of our Field Divisions now has a Victim/Witness Coordinator to ensure that all endangered children are identified and that the child's immediate safety is addressed at the scene by appropriate child welfare and health care providers. Assistance has also been provided to vulnerable adults, victims of domestic violence, and to customers and employees of businesses such as hotels and motels where methamphetamine has been produced or seized.

We also provide training on drug endangered children to federal, state, and local law enforcement

and to national, state and local victim organizations. The DEA serves as a resource for child protective service and school social workers, first responders, mail carriers, and utility company personnel, all of whom may come in contact with labs and victims. To provide the public with current information on methamphetamine and drug endangered children, the DEA participates in numerous local, state, and national conferences and exhibits. The issue of victim services is included as part of our Basic Agent Training, and also is presented to our management across the country.

We have continued to investigate, disrupt and dismantle major methamphetamine trafficking organizations through the Consolidated Priority Organization Target (CPOT) list and our Priority Target Organization (PTO) investigations. The DEA is also significantly involved in the Organized Crime Drug Enforcement Task program (OCDETF) and we continue to work with state and local law enforcement agencies across the country to combat methamphetamine. Additionally, in March 2005, Administrator Tandy directed the DEA's MET teams to prioritize methamphetamine trafficking organizations during their deployments.

In an effort to provide further information to America's youth about the dangers of methamphetamine, on August 30, 2005, the DEA launched a new website entitled "justthinktwice.com." This website is devoted to and designed by teenagers to give them the hard facts about methamphetamine and other illicit drugs. Through this website, the DEA is telling teens to "think twice" about what they hear from friends, popular culture, and adults who advocate drug legalization. Information is also provided regarding the harm drugs cause to their health, their families, the environment, and to innocent bystanders.

The DEA also continues its work to ensure that only legitimate businesses with adequate chemical controls are licensed to handle bulk pseudoephedrine and ephedrine in the United States. In the past seven years, over 2,000 chemical registrants have been denied, surrendered, or withdrawn their registrations or applications as a result of DEA investigations. Between 2001 and 2004, DEA Diversion Investigators physically inspected more than half of the 3,000 chemical registrants at their places of business. We investigated the adequacy of their security safeguards to prevent the diversion of chemicals to the illicit market, and audited their recordkeeping to ensure compliance with federal regulations.

The DEA is also working with our global partners to target international methamphetamine traffickers and to increase chemical control efforts abroad. The DEA has worked hand in hand with our foreign law enforcement counterparts and have forged agreements to pre-screen pseudoephedrine shipments to ensure that they are being shipped to legitimate companies for legitimate purposes. An example of our efforts in this area is an operation worked with our counterparts from Hong Kong, Mexico and Panama, which prevented approximately 68 million pseudoephedrine tablets from reaching "meth cartels." This pseudoephedrine could have produced more than two metric tons of methamphetamine.

Comments regarding the "Methamphetamine Epidemic Elimination Act"

As you can see, the DEA has known and has been working on the meth crisis for many years. We appreciate Congress' interest in this issue, and, without endorsing the specific legislative language of the bill, would like to offer some general observations regarding the "Methamphetamine Epidemic Elimination Act."

Title I -- Domestic Regulation of Precursor Chemicals

This title repeals the federal "blister pack" exemption; reduces the federal per-transaction sales threshold for pseudoephedrine, ephedrine, and phenylpropanolamine products from 9 grams to 3.6 grams; and clarifies the law to include derivatives of each of these chemicals. The section also extends the Attorney General's existing authority to set import and production quotas, expands the existing penalties for illegal production and importation, and seeks to address a gap in our existing regulatory control system for imports and exports of pseudoephedrine.

As the Committee knows, the Administration strongly supports the development of Federal legislation to fight methamphetamine production, trafficking, and abuse. Effective Federal legislation would include an individual purchase limit of 3.6 grams per transaction for retail sales of over-the-counter products containing pseudophedrine; elimination of the blister pack exemption for pseudoephedrine products, thus requiring all products containing this substance to be subject to Federal law regardless of packaging; and, to prevent diversion of pseudoephedrine shipments for illegal use, a requirement that importers of pseudoephedrine request and receive approval from the DEA if there is a change in the shipment's original purchase. Additional controls on pseudoephedrine, however, must always be balanced against legitimate consumer access to affected products. A number of States have approached this challenge in different ways, taking into account their individual law enforcement and consumer access needs. As referenced above, early data indicate that several States which have done this through individual legislative and regulatory initiatives appear to have seen real and sustained reductions in the number of methamphetamine labs in their states. Denying methamphetamine cooks the ability to gather the ingredients they need, while balancing the need of law abiding citizens to be able to access these commonly used cold products, is an approach that works. We look forward to working with Congress.

Title II -- International Regulation of Precursor Chemicals

This title would require additional reporting requirements for importers of ephedrine, pseudoephedrine, or phenolpropanolamine by requiring them to file additional information about the chain of distribution of imported chemicals. It also would place an additional reporting requirement on the State Department to identify the 5 largest exporters of major methamphetamine precursor chemicals, and the 5 largest importers that also have the highest rate of meth production or diversion of these chemicals to the production of meth. This title would incorporate these countries into the annual international counternarcotics "certification" process, and would make many forms of foreign assistance contingent on the President's certification that these countries are "fully cooperating" with the U.S. in enforcing chemical controls. (For chemical control efforts, the bill reverts to the stricter standard in effect before the 2002 certification cycle, after which the President designates only those countries that have "failed demonstrably" to cooperate.) Finally, the legislation would require the State Department's Bureau for International Narcotics and Law Enforcement Affairs to provide assistance to Mexico to prevent the production of methamphetamine in that country and to encourage Mexico to stop the illegal diversion of meth precursor chemicals.

We have serious concerns about these provisions. As you know, the Administration already

reports on some of the information this language would require in the annual International Narcotics Control Strategy Report. Although we agree that diversion of precursor chemicals is a serious problem and that the annual counternarcotics "certification" process should do more to account for the actions of our foreign counterparts with respect to chemical control, we believe that there are more appropriate and plausible ways to achieve this overall goal. An inter-agency group coordinated by the Department of State, with the Department of Justice taking the lead in drafting, has also been addressing the problem of how to take better account of synthetic drugs and precursor chemicals in the certification process. We would like the opportunity to consult with the Committee as we address some of the same difficult issues you face in attempting to evaluate chemical commerce and countries' chemical control efforts.

In October 2004, the Administration released the *National Synthetic Drugs Action Plan*. In doing so, we proclaimed the seriousness of the challenges posed by methamphetamine - along with other synthetic drugs and diverted pharmaceuticals - and our resolve to confront those challenges. Part of the Action Plan specifically recognized the move of large labs outside the United States requires that we offer assistance to strengthen anti-methamphetamine activities. This, in turn, requires working with other countries known to suppling methamphetamine producers with illicit pseudoephedrine. A Synthetic Drugs Interagency Working Group (SD-IWG), co-chaired by the ONDCP and the Department of Justice, was directed to oversee implementation of the Action Plan and to report to the ONDCP Director, Attorney General, and Secretary for Health and Human Services six months after the document's release. In the Interim Report, dated May 2, 2005, the SD-IWG responded to this portion of the Action Plan:

- China (particularly Hong Kong) has been a significant source of pseudoephedrine tablets that have been diverted to methamphetamine labs in Mexico. The United States and Mexico have obtained a commitment by Hong Kong not to ship chemicals to the United States, Mexico, or Panama until receiving an import permit or equivalent documentation and to pre-notify the receiving country before shipment.

- The United States has made significant progress in assisting Mexican authorities to improve their ability to respond to methamphetamine laboratories. The DEA has played a role by providing diversion and clandestine lab cleanup training courses for Mexican officials (both Federal and State).

- In conjunction with our joint efforts, Mexico this year began to impose stricter import quotas for pseudoephedrine, tied to estimates of national needs and based on extrapolations from a large population sample. Additionally, distributors have agreed to limit sales of pseudoephedrine to pharmacies, which in turn will sell no more than approximately nine grams per transaction to customers.

These developments stand as a model for the next steps to be taken with the limited number of manufacturers who produce bulk ephedrine and pseudoephedrine. Our efforts are, and will continue to be, focused on the primary producing and exporting countries for bulk ephedrine and pseudoephedrine: China, the Czech Republic, Germany, and India. Some of these efforts are not new, but involve a long-term commitment, using the tools at the Administration's disposal, to engage with foreign law enforcement and regulatory counterparts in these countries and to replicate the steps taken with Hong Kong and Panama. These steps include improving the sharing of information on pseudoephedrine shipments with other

countries, thus preventing their diversion - especially to Mexico.

Under existing Federal law, the DEA must be notified if an ephedrine or pseudoephedrine product is destined for, or will transit through, the United States. But the legal and regulatory tools to limit imports and after-import distribution are relatively crude. Moreover, the prevailing interpretation of the 1988 United Nation's Convention that controls chemicals allows most finished pharmaceutical products containing pseudoephedrine in combination with other ingredients to be shipped in international commerce without pre-notification - a wide-open loophole that continues to be exploited by drug traffickers. The U.S., along with our Mexican and Canadian counterparts, has been working to gain international support for voluntary international cooperation to pre-notify shipments of these products; our efforts are being channeled through the drug control commission of the OAS ("CICAD").

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Title IV -- Enhanced Environmental Regulation of Methamphetamine By-Products

This title would give additional authority to the Transportation Department and the Environmental Protection Agency (EPA) to enforce environmental regulations against meth cooks who cause toxic pollution with meth by-products. In addition, this title would clarify existing law in light of the recent Eighth District Court of Appeals decision in *United States v. Lachowski* to allow the Federal government to seek restitution for environmental cleanup costs on persons involved in meth production and trafficking.

While the Administration cannot comment on the specific proposals in this title, the environmental costs associated with meth production have long been a concern of the DEA. In FY 1988, the DEA's Hazardous Waste Disposal Program was established to assist our Special Agents in the management of the chemicals, waste and contaminated equipment seized at clandestine drug laboratories. Funding for this program was initially provided through the Asset Forfeiture Fund. In 1998, the DEA began receiving funding from the Community Oriented Policing (COPS) program, and DEA Appropriated Funds in FY 1999, to support the cleanup of clandestine drug laboratories seized by state and local law enforcement. Together with the Asset Forfeiture Fund, these funding sources continue today.

Today, when a federal, state or local agency seizes a clandestine methamphetamine laboratory, EPA regulations require the agency to ensure that all hazardous waste materials are safely removed from the site. To facilitate the removal of these materials, the DEA awarded the first private sector contracts in 1991for hazardous waste cleanup and disposal. This program promotes the safety of law enforcement personnel and the public by using qualified companies with specialized training and equipment to remove hazardous waste seized at clandestine drug laboratories. These contractors provide response services to DEA, as well as state and local law enforcement officials nationwide. These contracts serve communities by removing the source-chemicals that may pose threats to the public, which also helps to protect the environment.

Since the DEA first began using contractor services in the early 1990s, the number of cleanups has skyrocketed, though the average cost per cleanup has greatly decreased. The average cost per cleanup during the initial contract was approximately $17,000. During FY 2002, the average cleanup cost dropped

to approximately $3,300, and currently, the average cost per cleanup is approximately $2,000.

To further reduce the cost of lab cleanups, in FY 2004, the DEA, with assistance provided by COPS, joined the Kentucky State Police to establish a pilot, clandestine lab "container program" in Kentucky. The program allows trained Kentucky law enforcement officers to safely package and transport hazardous waste from the clandestine laboratory sites to a centralized secure container that meets all hazardous waste storage requirements. The waste is subsequently kept in the container until it can be removed by a DEA contractor. The container program has streamlined the laboratory cleanup process by enabling law enforcement officials to manage small quantities of seized chemicals more quickly and efficiently. As of the third quarter of FY 2005, the average cost of cleanup in this project was approximately $350. The DEA is currently working to expand this program to several other states.

Conclusion

Methamphetamine continues to take a terrible toll on this country. To combat this poison, the DEA is attacking methamphetamine on all fronts. Our enforcement efforts are focused not only on the large-scale methamphetamine trafficking organizations distributing this drug in the U.S., but also on those involved in providing the precursor chemicals necessary to manufacture this poison. The DEA is well aware of the importance of controlling the precursor chemicals necessary to produce methamphetamine and is working with our international counterparts to forge agreements to control the flow of these chemicals

We are also working closely with our state and local law partners to assist in the elimination of the small toxic labs that have spread across the country. The DEA's Hazardous Waste Program, with the assistance of grants to state and local law enforcement, supports and funds the cleanup of a majority of the laboratories seized in the United States. The DEA has also taken an active role in the Victim Witness Assistance Program to assist methamphetamine's victims educating communities about the dangers of meth and other illicit drugs.

Thank you for your recognition of this important issue and the opportunity to testify today. I will be happy to answer any questions you may have.